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MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101				
EXAMINER				
HERNANDEZ, NELSON D				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on February 19, 2009 have been fully considered but they are not persuasive.
2. The Applicant argues that the teaching of AAPA, Shimoyama, and Tetsuji fails to teach either alone or in combination a "first correction unit adapted to correct signals of the effective pixel area by subtracting the first reference signal from each horizontal line signal of the effective pixel area with respect to each corresponding horizontal line" along with "a second correction unit adapted to correct signals of the effective pixel area, which are corrected by said first correction unit, by evenly subtracting a representative value, which is based on the second reference signal, from the plurality of horizontal lines of the effective pixel area". And further indicates that **claim 9** recites said first and second correction units analogous to those of **claim 1**.
3. The Examiner disagrees. As indicated in item 3 of the Advisory Action (Form PTOL-303), **claim 1** as amended including the limitations "from each horizontal line signal of the effective pixel area" and "from the plurality of horizontal lines of the effective pixel area" introduces new issues that would require further search and consideration. Those new elements in **claim 1** are not present in **claim 9**. Also, the second correction unit in **claim 9** is claimed as "a second correction unit which corrects the signal from the photoelectric conversion region on the basis of a second reference signal common to signals from the two-dimensionally arrayed photoelectric conversion elements". The Examiner notes that the second correction unit in **claim 9** does not require the particulars of the second correction unit of **claim 1** ("a second correction unit

*adapted to correct signals of the effective pixel area, which are corrected by said first correction unit, **by evenly subtracting a representative value**, which is based on the second reference signal, **from the signals of the plurality of horizontal lines of the effective pixel area**".* Furthermore, the first correction unit in **claim 9** appears to be different from the first correction unit of **claim 1** as now amended. Therefore, the Examiner understands that said first and second correction units of **claim 9** are not analogous to the first and second correction units of **claim 1** as argued.

4. Therefore, since the limitations argued to **claim 1** are not necessarily related to **claim 9** as explained above, and since the Examiner understands that the combined teaching of AAPA, Shimoyama, and Tetsuji as discussed in the previous Office Action teaches the limitations of **claim 9**, the rejection of **claim 9** is considered proper and thus maintained.

5. **Examiner's Note:** Apparatus **claim 1** use the term "**adapted to**" throughout when describing the function of portions of the apparatus. Use of such language (i.e. "**adapted to**") is not a positive recitation that such a limitation must occur, but merely that the apparatus must be configured in such a way that the possibility of the limitation occurring is presented. Thus, while the Examiner has specifically addressed the limitations as being obvious/anticipated, should the claims become patentable over the cited art during prosecution, such a limitation could be viewed as non-limiting as it "suggests or makes optional" the claimed limitations. See MPEP 2106 – C. Therefore, the Examiner suggests amending such limitations to give a positive recitation of their occurrence, such as replacing "**adapted to**" with "which when operable".

**Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernández Hernández whose telephone number is (571) 272-7311. The examiner can normally be reached on 9:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Nelson D. Hernández Hernández  
Examiner  
Art Unit 2622

NDHH  
March 6, 2009